



BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM
WASHINGTON, DC 20551

April 2, 2013

Eloy U. Ortega
Chief Executive Officer
The Bank of Santa Barbara
12 East Figueroa Street
Santa Barbara, CA 93101

Dear Mr. Ortega:

This is in response to your letter dated October 11, 2012, on behalf of The Bank of Santa Barbara (“Bank”) and the Hutton-Parker Foundation (“Foundation”), both of Santa Barbara, California, requesting relief from a passivity commitment that the Foundation made to the Board in connection with the Foundation’s acquisition of approximately 16 percent of Bank’s outstanding voting shares when Bank recapitalized in 2009.¹ The passivity commitment at issue restricts the type and extent of financial relationships the Foundation may have with Bank and its affiliates to \$500,000 in deposit accounts, subject to certain conditions.

You seek partial relief from the Foundation’s commitment limiting financial transactions between the Foundation and Bank. Specifically, you seek an exception from the commitment that would allow the Foundation to guarantee a loan that Bank plans to make to the Ensemble Theatre Company of Santa Barbara. You represent that the loan is on market terms, is non-exclusive, and was negotiated on an arms’ length basis. You also state that the amount of the guarantee would be de minimis, representing less than one percent of the Bank’s total loan portfolio and less than one percent of the Foundation’s total assets.

¹ Due to events occurring subsequent to the capitalization, the Foundation’s interest in Bank has increased to 17.21 percent.

For purposes of the BHC Act, a company has control over another company if the first company (i) directly or indirectly or acting through one or more other persons owns, controls, or has power to vote 25 percent or more of any class of voting securities of the other company; (ii) controls in any manner the election of a majority of the directors of the other company; or (iii) directly or indirectly exercises a controlling influence over the management or policies of the other company.² The Board's Regulation Y also sets forth a set of rebuttable presumptions of control, none of which is implicated here.³ The proposed transaction raises the question of whether the Foundation could be considered to exercise a controlling influence over Bank's management or policies by virtue of the requested relief.

On September 22, 2008, the Board issued its policy statement on equity investments in banks and bank holding companies ("Policy Statement"),⁴ in which the Board noted that not all business relationships – even when accompanied by a material investment by a noncontrolling minority investor – provide the investor a controlling influence over the management or policies of the banking organization. Accordingly, the Board has allowed business relationships that were quantitatively limited or qualitatively nonmaterial, particularly in situations where an investor's voting securities percentage in the banking organization was closer to 10 percent than 25 percent.⁵ The Policy Statement notes that the Board will review business relationships on a case-by-case basis within the context of the other elements of the investment structure and, in that review, will pay particular attention to the size of the proposed business relationships and to whether the proposed business relationships would be on market terms, non-exclusive, and terminable without penalty by the banking organization.⁶

The proposed transaction between Bank and Foundation is a one-time set-price transaction, negotiated at arms' length and on market terms, that would be limited to a five-year period and would be de minimis when compared with Bank's total loan portfolio and Foundation's total assets. Given the type and size of the proposed transaction, it does not appear that either Foundation or Bank would

² 12 U.S.C. § 1841(a)(2); 12 CFR 225.2(e).

³ See 12 CFR 225.31(d).

⁴ See Board press release dated September 22, 2008, at <http://www.federalreserve.gov/newsevents/press/bcreg/bcreg20080922b1.pdf>.

⁵ 12 CFR 225.144(c)(4)(i).

⁶ *Id.*

become economically dependent on, or subject to influence because of, this transaction. No other facts or circumstances of the relationship with Foundation or Bank would change. All other passivity commitments made by Foundation at the time of its initial investment in Bank would remain in full force and effect, including the commitment that Foundation would not attempt to exercise a controlling influence over the management or policies of Bank.

Based on all the facts of record, the Director of the Division of Banking Supervision and Regulation, acting pursuant to authority delegated by the Board under section 265.7(a)(2) of the Board's Rules Regarding Delegation of Authority,⁷ and after consulting with the General Counsel, has determined that granting the exception would not affect the determination that the Foundation does not exercise a controlling influence over Bank. The Director has, therefore, granted the requested exception to the commitments for the limited purpose of permitting Foundation's guarantee of the proposed loan to be made by Bank to Theatre Company. The passivity commitments made by the Foundation remain in force for all other purposes.

This determination is based on the facts and representations presented in your October 11, 2012, letter and in subsequent communications with the Board. Any material changes in those facts and representations could result in a different conclusion and should be reported immediately to Board staff.

Very truly yours,


Margaret McCloskey Shanks
Deputy Secretary of the Board

cc: Mr. Ken Binning, Vice President
Federal Reserve Bank of San Francisco

⁷ 12 CFR 265.7(a)(2).